IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 949 OF 1992

Shyamlal Hariram ..Appellant

versus

The Special Land Acquisition Officer ..Respondents

Mr. S. G. Surana for the Appellant.

Mr. B. R. Patil, Acting G.P. for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 31ST MARCH, 2005

ORAL ORDER :

1. Heard learned counsel for the Appellant and learned AGP for the Respondents - State.

2. This appeal is filed by the claimant challenging the order of the Reference Court - IIIrd Additional District Judge, Raigad at Alibag dated 4.2.1992, not considering his demand for enhancement of compensation under the Land Acquisition Act at the rate of Rs.25/- per sq. meter. The land of the claimant is situate at Taloja Panchanand. It was acquired for New Bombay Project. Land acquired was

3820 sq. meter, SLAO awarded compensation at the rate of Rs.3/- per sq. meter.

3. Counsel for the appellant contended that **Division Bench (Patankar & Chandrashekhara Das, JJ) of this Court by their Judgment dated 10.1.2001 in First Appeal No. 950 of 1985** has awarded compensation at Rs.25/- per sq. meter in respect of the lands from the same village. There also Expert Jeevan Kulkarni was examined by the claimant. He has given the distance of the land and the acquired land in that Appeal was 640 meters from Bombay Pune Highway and 56 kms from New Mumbai Pune Highway. Therefore, in that background the Division Bench awarded Rs.25/- per sq. meter.

4. I have been following judgment of the Division Bench (A.P. Shah & J.A. Patil, JJ) in First Appeal No. 875 of 1985 and 30 other First Appeals with 4 Cross Objections, dated 16.3.2000, the criteria applied by the Division Bench was proximity of the acquired land from the National Highway. Many appeals from Village Taloja Panchanand have been decided by me on the basis of the Judgment of the Division Bench of A.P. Shah & J.A. Patil, JJ.

5. In the instant case Expert Jeevan Kulkarni

was examined by the claimant. He had stated that the land under reference is 2 to 3 kms. away from the railway line and Bombay Pune National Highway is at distance of 2 kms. It appears that there is some mistake in paragraph 13 of the judgment of the Reference Court because the report of Jeevan Kulkarni Exhibit ’18’ in the instant case shows that Taloja Railway is 320 meters and Bombay Pune National Highway No.4 is 250 meters from the acquired land. Therefore, in view of this, Reference Court should have awarded Rs.25/- per sq. meter. Hence, following order :

ORDER

. Appeal is partly allowed.

. Claimant - Appellant will be entitled to compensation at the rate of Rs.25/- per sq. meter for the acquired land with proportionate increase in solatium and interest as per the law. No order as to costs.

. In view of the above Civil Application No.1055 of 2005 does not survive, it is disposed of.

31.3.2005 (D.G. DESHPANDE, J.)